

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

March 3, 1977  
10:00 A.M.

Council Chambers  
301 West Second Street

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The meeting was called to order with Mayor Friedman presiding.

Roll Call:

Present: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Linn, Trevino

Absent: Councilmember Lebermann

APPROVAL OF MINUTES

Councilmember Himmelblau moved that the Council approve the Minutes for February 24, 1977. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann

Noes: None

Absent: Councilmember Lebermann

Abstain: Councilmember Linn

Not in Council Chamber when roll was called: Councilmember Trevino

CONSIDERATION OF VOTE ASKED

Mr. Joe Riddell appeared before the Council asking them to consider a vote made on the appeal he made concerning the special permit for the Bee Cave Apartments. He said that the Planning Commission had approved the special permit in January by a 3-2 vote and he filed a timely notice of appeal under Section 45-29 of the Austin City Code. Public hearing was scheduled February 24, 1977, but Mr. Riddell was not present. It seemed to him that the Council was under the impression that because he was not at the public hearing to talk about the appeal, the Council's only option was to dismiss the appeal. He said that he had sent a three-page letter to the Council members the day before the hearing listing his

reasons for appealing the special permit. He went on to say that his understanding of the City Code was that the appellants presence was not required at a public hearing. He requested the Council vote for the appeal on its merits.

Mayor Friedman asked Mr. Don Wolf to present the Legal Department's opinion on the action taken at the February 24, 1977, Council meeting. Mr. Wolf responded that the item required no further action from the Council, because they finally acted last week on the appeal by dismissing it, for whatever reason, "It has been dismissed and that is the end of the appeal," explained Mr. Wolf. He went on to say that the 10-day period has run out so that Mr. Riddell cannot file a new appeal and the item is dead.

Mr. Riddell asked if it was the opinion of the Legal Department that the section of the Code that provides for an appeal, where it says the person may appeal to the City Council for a review of the Commission's decision, that that review does not need to be a review on the merits and that they may decline review of the merits? Mr. Wolf said that he had not attended last week's meeting but that it was his understanding there was a report from staff, that the Council listened to it, and if they had chosen they could have taken a vote other than dismissal. The Council chose to vote to dismiss. That was their action on the item. Mr. Riddell said, "So, it is the opinion of the Legal Department that the City Council had the option last week to reach the merits of the appeal?" "That is correct," replied Mr. Wolf. "And," said Mr. Riddell, "that they declined to reach the merits of the appeal?" "I don't know that they reached the merits," replied Mr. Wolf, "I know that they heard a report from staff and at that point they could have voted on the merits if they wanted to, but they chose to dismiss and that was it."

"It's also the opinion of the Legal Department that because of the absence of the appellant, it was not necessary that the appeal be dismissed?" asked Mr. Riddell. Mr. Wolf asked him to repeat. "O.K. ... because the appellant was not present, was the appeal necessarily to be dismissed?" "No," said Mr. Wolf. "The Council could have reached the merits?" asked Mr. Riddell. "That is correct," answered Mr. Wolf, "and chose not to."

"Maybe the Council will want to shed some light on it. It was my feeling that you didn't reach the merits and that I was entitled to..."

Mayor Friedman asked, "What is the pleasure of the Council?" Councilmember Linn pointed out that her vote had been not to dismiss because she felt that permit should not have been granted. Mr. Riddell continued that he felt the Council was under the impression that because he wasn't there, the action had to be dismissed.

Councilmember Himmelblau commented that she saw no reason to act on this issue since the Council had dismissed it last week.

#### Motion - Died

Councilmember Linn made a motion that the appeal be reheard. The motion died for lack of a second.

Mayor Friedman concluded that there would be no further action taken and that the decision of the Planning Commission stands.

## PUBLIC HEARING ON STREET NAME CHANGE

Councilmember Trevino moved that the Council adopt a resolution setting a public hearing for April 21, 1977, at 7:30 p.m. to consider changing the names of several streets in northwest Austin. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Linn, Trevino, Mayor  
Friedman, Mayor Pro Tem Snell  
Noes: None  
Absent: Councilmember Lebermann

## LICENSE AGREEMENTS

Councilmember Linn moved that the Council adopt a resolution to enter into a License Agreement with the Missouri Pacific Railroad Company for the purpose of installing a 16-inch water line beneath said Railroad's Right-of-way at Mile Post 169.78, Engineer's Station 28+84.30 in Travis County, Texas, at Austin. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Hofmann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to enter into a License Agreement with Southern Pacific Transportation Company for the purpose of installing an 8-inch water line beneath said Railroad's Right-of-way at Mile Post 10.67, Engineer's Station 487+88 in Travis County, Texas, at Austin. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Hofmann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None  
Absent: Councilmember Lebermann

## CONTRACTS AWARDED

Councilmember Linn moved that the Council adopt a resolution to award the following contracts:

AUSTIN WHITE LIME COMPANY  
McNeil Road  
Austin, Texas

- Quicklime, for use as water softener,  
Water & Wastewater Treatment Division.  
Twelve months supply agreement.  
Item No. 1.1 and/or Alternate Item 1.2  
estimated 10,000 tons at initial price  
\$38.40/ton. Estimated total -  
\$384,000.00.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

OAKES EQUIPMENT COMPANY  
5736 Darling Street  
Houston, Texas

- Trench Boxes, Water and Wastewater  
Department. Items 1-10 - \$9,707.78.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

ANDERSON MACHINERY COMPANY  
9415 NE Loop 410  
San Antonio, Texas

- Repair Parts for Allis-Chalmers Loader,  
Vehicle and Equipment Services  
Department. Items 1-15 - \$7,860.70.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

O. K. SAATHOFF  
Route 1, Box 68  
Navasota, Texas

- Fertilizer, Furnish and Apply; applicable  
to golf course tees, fairways, and park  
areas. Seven months supply/service  
Agreement, including option for three  
months period. Parks and Recreation  
Department. Item No. 1 estimated 110  
tons @ \$109.50/ton. Item No. 2  
estimated 30 tons @ \$92.00/ton.  
Total - \$14,805.00

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

CHROMALLOY CHEMICAL DIVISION  
4415 Dividend  
San Antonio, Texas

- Sulfuric Acid, in bulk, for water treatment (demineralizer regeneration). Power Production Division. Twelve months Supply Agreement including option for a 90-day extension. Item No. 1 estimated 165 tons at \$54.25/ton. Total - \$8,951.25.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to award the following contract:

LIFSON, WILSON, FERGUSON &  
WINICK, INC.  
1122 Colorado  
Austin, Texas

- Productivity Program, Water and Wastewater Department. Approximately 10-12 months contract - estimated \$80,000.00

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

Councilmember Linn asked if the productivity study under this item was done in Dallas. Mr. Davidson, City Manager, answered in the affirmative. She asked how long it would take to make up the \$80,000.00. Mr. Curtis Johnson, Director of the Water and Wastewater Department, commented that his information from the Dallas Water and Sewer Department, using their 1972-73 budget year as a base year, identified a \$2.2 million dollar savings in their 1975-1976 budget. Mr. Johnson pointed out that Dallas was, of course, about three times larger than Austin. Of that amount, approximately \$1.8 million was a re-occurring type savings each year. The remainder or difference in the two figures were various one-time sort of savings. Councilmember Linn asked if the study was necessary at this time. Mr. Johnson felt it certainly was and said it would be beneficial for Austin to do anything in the most efficient manner possible. He pointed out that the efforts for Dallas were brought to his attention through his counterpart in Dallas, who was very pleased with the results of the study.

Councilmember Himmelblau asked if there was no one in the department or locally who could do time and motion studies so that the City would not have to get into the expense. Mr. Johnson replied that he knew of no in-house sort of capability, that while he was certainly not an expert in all of the details of the proposed methods that are used in this, he knew of no one locally who could do the study. Mr. Davidson added that the City looks at this study as an

initial effort that hopefully can be applied to a number of City departments and believes that after the first audit is conducted that they will have to make a study to see whether or not it will be beneficial to develop some in-house capability. At this time, he continued, he did not think there was the capability to do the sort of in-house job that is expected from the consultants. Mr. Johnson also said that he thought that the program, as it is set up, would give Austin the in-house capability.

#### CONTRACT RENEWAL FOR BOOKMOBILE SERVICE

Councilmember Himmelblau moved that the Council adopt a resolution to renew the contract between Travis County and the City of Austin for bookmobile service in the amount of \$26,862.00. (January 3, 1977 through December 31, 1977) The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

#### SELECTION OF PROFESSIONAL ENGINEERING SERVICES

Mayor Friedman moved that the Council adopt a resolution to select the professional engineering services of ~~Hale~~ and Associates, Inc. in connection with the project for the Water & Wastewater Department. (Capital Improvements Program, Williamson Creek Wastewater Interceptor, East of South First Street, westerly to East of Manchaca Road) The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem  
Snell, Councilmembers Himmelblau, Linn  
Noes: None  
Abstain: Councilmember Hofmann  
Absent: Councilmember Lebermann

Councilmember Linn moved that the Council adopt a resolution to select the professional engineering services of Harold Pearson in connection with the project for the Water and Wastewater Department. (Capital Improvements Program, Boggy Creek [South] Wastewater Interceptor, East of I.H. 35 Southwesterly to Circle S Road, Lift Station and Force Main.) The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Linn, Trevino  
Noes: None  
Absent: Councilmember Lebermann

Mayor Friedman moved that the Council adopt a resolution to select the professional engineering services of Jeryl Hart & Associates, Inc., in connection with a project for the Water and Wastewater Department. (Capital Improvements Program, Upper Walnut Creek Wastewater Interceptor, Dessau Road Westerly to FM 1325, Lift Station and Force Main.) The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Linn,  
Trevino  
Noes: None  
Abstain: Councilmember Hofmann  
Absent: Councilmember Lebermann

#### MULTIPLE USE AGREEMENT

Councilmember Trevino moved that the Council adopt a resolution to authorize entrance into a Multiple Use Agreement with the State Department of Highways and Public Transportation on construction of Hike and Bike Trail along Loop 1 from Enfield Road south to Town Lake. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Linn, Trevino, Mayor  
Friedman, Mayor Pro Tem Snell  
Noes: None  
Absent: Councilmember Lebermann

#### SOUTH AUSTIN MULTI-PURPOSE CENTER

Councilmember Trevino moved that the Council adopt a resolution to authorize institution of condemnation proceedings to acquire the following tract of land for the construction of the South Austin Multi-Purpose Center:

19,977 square feet (0.46 acres) tract of land out of the Isaac Decker League, locally known as 2515-2517 South First Street, Austin, Texas. (Owner: Gabriel Camargo, Jr.)

The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Councilmembers Hofmann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None  
Absent: Councilmember Lebermann

#### CABLE TV

Mayor Friedman stated that the following agenda items would be considered at the same time:

1. Cable TV Ordinance setting up a study group
2. Establishment of Cable TV Task Force
3. Cable TV Task Force Fiscal Note

MR. JERRY PRESLEY representing the Austin Video Users Council spoke before the Council. Mr. Presley indicated that he would address three areas of concern in relation to the development of a task force to study cable television in Austin. The concerns were as follows:

1. Cost: He said that the cost of developing a task force would be \$1,200 and recommended that the City draw this amount from the 2%/\$40,000 franchise fee that the City receives from the cable company annually, and invest it back into the system in the form of a task force.
2. Inaction due to 1983 expiration date of current contract: He pointed out that the FCC (Federal Communications Commission), encourages local participation and enforcement of its nationwide rules and have made many recommendations in this area.
3. Balance on the task force: He felt that the make-up of the task force should not be an adversary relationship. He pointed out that the use of cable facilities is a mutually helpful venture to all parties concerned with it.

Councilmember Himmelblau asked Mr. Presley what he meant by the statement that the money was there. Mr. Presley answered that the FCC has indicated that the purpose of the local franchise fee is to support the local regulatory agency. He stated that over the past few years, Capital Cable Company has paid out \$1.5 million to the City of Austin and that all they were asking was that some of this money now be reinvested back into the cable system. Councilmember Himmelblau pointed out that the money received from Capital Cable Company has already been incorporated into the City operating budget and that it has already been spent.

MR. DONALD S. THOMAS, attorney representing the Capital Cable Company, spoke before the Council. He stated that a task force was being created to solve a problem where no problem exists. He commented that the Council was imposing a censorship upon a private business which was a dangerous step to take. Councilmember Linn asked Mr. Thomas what kind of censorship the City was imposing on the cable company. He said that the resolution provided for a cable television commission that would conduct continuing surveillance. Councilmember Linn stated that this commission would have a limit of six months. Mr. Thomas commented that he did not agree with the idea of the City assuming municipal ownership of the Company. He felt that this proposed commission would recommend the same things that the recommendations from the League of Women Voters suggested. They recommended a twenty channel system which would provide service already available to the community and double the cost to the subscriber. He said this would deny many persons access to a poor man's entertainment. He pointed out that if the company is compelled to alter the system to twenty channels, it would put a great deal of pressure upon the company. Councilmember Linn indicated



that the company would receive additional revenue whether the task force was created or not. Mr. Thomas stated that the expansion of the system was not technically feasible and that it would cost in the neighborhood of \$20 million. Councilmember Linn stated that this was why there would be an investor or banker on the Commission, so that there would be professional advisement on the financial aspects of cable expansion. Mr. Thomas stated that these persons would only carry a certain number of votes. Councilmember Linn assured Mr. Thomas that she was certain the Commission would return a favorable recommendation. Mayor Friedman pointed out, however, that irregardless of what the Commission recommended, the company was still under a contract until 1983 and that there would be no way of implementing any recommendations. Councilmember Linn said that she had a statement from the League of Women Voters which stated that even though the company was under contract until 1983, there were ways in which service could be improved with encouragement from the City Council. Mr. Thomas pointed out that the Capital Cable Company was a progressive company and did not need encouragement from the Council to improve upon the system. The Council took the following action in the afternoon meeting:

#### Motion

Councilmember Linn moved that the Council adopt a resolution for the cable television task force as provided by the City Legal Department, with the exception of Article 3, which, she said, needed to be changed before the task force selects its chairperson. The motion was seconded by Councilmember Trevino.

Councilmember Hofmann asked if there was some way the responsibility of a task force could be assumed by the League of Women Voters. Mr. Presley stated that in 1972 the FCC set up a dual regulatory policy by which the FCC would administer certain minimal standards with enforcement of these standards incumbent upon the particular local government. The City of Austin, therefore, has a responsibility in cable regulation. He said that only the City would have the authority to request certain technical information as to the workings of the cable system.

#### Roll Call - Failed

Ayes: Mayor Pro Tem Snell, Councilmembers Linn, Trevino  
Noes: Councilmembers Himmelblau, Hofmann, Lebermann, Mayor  
Friedman (Councilmember Lebermann having entered the  
Council meeting before this time)

The Mayor announced that the motion had failed to carry.

Councilmember Trevino stated that he encouraged the study of maximum citizen access and cable service at a rate which continues to be within the reach of most citizens, including low income citizens. This means that the fullest study must be given to the maximum utilization of the current 11-channel system, as well as to possible alternates.

#### CANCELLATION OF PUBLIC HEARING

Councilmember Trevino moved that the Council cancel the public hearing previously set for March 17, 1977, to amend certain sections of the Austin City Code zoning ordinances. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Absent: Councilmember Lebermann

#### SUBSTANDARD STRUCTURE TO BE REPAIRED

The Building and Standards Commission recommended that the Law Department take proper legal disposition of a structure owned by Paul Saucedo at 1131 (C) Berger. Councilmember Trevino explained that Mr. Saucedo has been granted a building permit to repair the property so the action has been dropped.

#### IMPROVEMENTS TO RIVERSIDE DRIVE

Mayor Friedman introduced the following ordinance:

AN ORDINANCE DECLARING THE NECESSITY FOR AND ORDERING THE PAVING AND IMPROVEMENT OF PORTIONS OF CERTAIN STREETS IN THE CITY OF AUSTIN, APPROVING PLANS AND SPECIFICATIONS FOR SUCH WORK, AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS, DIRECTING THE PREPARATION OF ESTIMATES, INVOKING THE ALTERNATE PROCEDURE PROVIDED BY ARTICLE I, SECTION 5 OF THE CHARTER OF THE CITY OF AUSTIN AND CHAPTER 106 OF THE ACTS OF THE FIRST CALLED SESSION OF THE 40TH LEGISLATURE OF TEXAS, DETERMINING THAT THE COST OF SUCH IMPROVEMENTS SHALL BE PAID BY THE CITY OF AUSTIN, PROVIDING A METHOD OF REIMBURSING THE CITY OF AUSTIN FOR A PORTION OF SUCH COSTS BY ASSESSMENT OF A PORTION OF SUCH COSTS AGAINST THE PROPERTY ABUTTING SUCH STREETS OR PORTIONS THEREOF TO BE IMPROVED, AND FOR THE FIXING OF A LIEN TO SECURE PAYMENT OF SUCH ASSESSMENTS, STATING THE TIME AND MANNER PROPOSED FOR PAYMENT OF ALL SUCH COSTS, DIRECTING THE CITY CLERK TO CAUSE A NOTICE OF THE ENACTMENT OF THIS ORDINANCE TO BE FILED IN THE MORTGAGE OR DEED OF TRUST RECORDS OF TRAVIS COUNTY, TEXAS, AND DECLARING AN EMERGENCY.  
(Riverside Drive)

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Linn, Trevino  
Noes: None  
Absent: Councilmember Lebermann

The Mayor announced that the ordinance had been finally passed.

#### SPEED CHANGES

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING SUBSECTION (c) OF SECTION 21-41 OF THE AUSTIN CITY CODE OF 1967, MAKING CERTAIN DELETIONS AND ADDITION TO SAID SUBSECTION, THEREBY DECLARING THE MAXIMUM PRIMA FACIE SPEED LIMITS UPON CERTAIN STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF AUSTIN, PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS"

(VERNON'S ANN. CIV. ST., ART. 6701d); REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (Winsted Lane)

Mayor Friedman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Trevino, Mayor Friedman  
Noes: Councilmember Linn  
Absent: Councilmember Lebermann

The Mayor announced that the ordinance had been finally passed.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-42 OF THE AUSTIN CITY CODE OF 1967, MAKING CERTAIN ADDITIONS TO SAID SUBSECTION, THEREBY DECLARING THE MAXIMUM PRIMA FACIE SPEED LIMITS UPON CERTAIN STREETS AND HIGHWAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF AUSTIN, PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS" (VERNON'S ANN. CIV. ST., ART. 6701d); REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (Winsted Lane, Atlanta Street)

Mayor Friedman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Trevino, Mayor Friedman  
Noes: Councilmember Linn  
Absent: Councilmember Lebermann

The Mayor announced that the ordinance had been finally passed.

#### AMENDING THE FISCAL NOTE ORDINANCE

Mayor Friedman introduced the following ordinance:

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A SYSTEM OF FISCAL NOTES FOR ORDINANCES THAT REQUIRE THE EXPENDITURE OF NON-BUDGETED CITY FUNDS OR THAT REQUIRE ANY NEW LOCAL TAX, FEE, LICENSE CHARGE, OR PENALTY OR THAT REQUIRE AN INCREASE OR DECREASE IN ANY EXISTING LOCAL TAX, FEE, LICENSE CHARGE OR PENALTY; AND SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS.

Mayor Friedman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Linn, Trevino,  
Mayor Friedman, Mayor Pro Tem Snell  
Noes: None  
Absent: Councilmember Lebermann

The Mayor announced that the ordinance had been finally passed.

Instead of having the City Manager prepare a fiscal note when asked to by the Council, which can cause some delay, it is being changed to be required automatically.

#### PROHIBITION OF BOAT RACES ON TOWN LAKE

Mayor Pro Tem Snell requested that the amendment to the Austin City Code to prohibit boat races on Town Lake, east of I. H. 35, effective September 1, 1977, be postponed until a later date.

At this time, Councilmember Lebermann entered the Council Chambers.

#### REGULAR MUNICIPAL ELECTIONN CALLED

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF AUSTIN ON APRIL 2, 1977 FOR THE PURPOSE OF ELECTING SIX COUNCILMEN AND A MAYOR OF THE CITY OF AUSTIN FOR A TERM OF TWO YEARS BEGINNING MAY 15, 1977; PROVIDING FOR POLLING PLACES; PROVIDING FOR THE FORM OF THE BALLOT; PROVIDING FOR HOURS OF ABSENTEE VOTING; PROVIDING FOR A SPECIAL CANVASSING BOARD; PROVIDING FOR THE USE OF AN ELECTRONIC VOTING SYSTEM; PROVIDING FOR PROPER NOTICE AND SUCH OTHER ASPECTS AS ARE INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF AN ORDINANCE ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor  
Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None

The Mayor announced that the ordinance had been finally passed.

#### APPOINTMENT OF ELECTION OFFICIALS

Mayor Friedman introduced the following ordinance:

AN ORDINANCE APPOINTING ELECTION OFFICIALS TO CONDUCT THE GENERAL MUNICIPAL ELECTION TO BE HELD APRIL 2, 1977; PROVIDING COMPENSATION FOR THE ELECTION OFFICIALS; DESIGNATING THE UTILIZATION OF AN ELECTRONIC VOTING SYSTEM FOR SAID ELECTION; DESIGNATING A PRIME AND ALTERNATE CENTRAL COUNTING STATION FOR SAID ELECTION; ESTABLISHING A DATE FOR A PRECOUNT TEST OF THE AUTOMATIC

TABULATING EQUIPMENT; PROVIDING NOTICE OF SAME; DIRECTING THAT AN INSTRUCTION SCHOOL FOR ELECTION OFFICERS SHALL BE CONDUCTED; PROVIDING NOTICE OF SAME; PROVIDING FOR SUCH OTHER ASPECTS AS ARE INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF AN ORDINANCE ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Mayor Friedman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

The Mayor announced that the ordinance had been finally passed.

#### DOG ORDINANCE

Mayor Friedman brought up the following ordinance for its second reading:

AN ORDINANCE AMENDING ORDINANCE NO. 760927-A, ANNUAL BUDGET ORDINANCE FOR FISCAL YEAR BEGINNING OCTOBER 1, 1976, AND TERMINATING SEPTEMBER 30, 1977, BY APPROPRIATING \$51,083 FOR THE AUSTIN-TRAVIS COUNTY ANIMAL CONTROL PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the second time, and Councilmember Hofmann moved that the ordinance be passed to its third reading. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Linn, Himmelblau, Hofmann, Lebermann  
Noes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell

The Mayor announced that the ordinance had been passed through its second reading only.

The Council recessed from 10:30 a.m. until 11:35 a.m.

#### GIVENS PARK RECREATION CENTER

Mr. Jack Robinson, Director of the Parks and Recreation Department told the Council that of the original appropriation of \$1,039,000, a total of \$110,310 will be spent for architectural fees, sound consultant, soil tests, Construction Management charges and land acquisition. In addition to these expenditures \$23,000 will be required for testing and inspection and \$31,000 will be needed for a construction contingency. These additional expenditures leave approximately \$874,690 for construction. This eliminates the \$67,000 needed for parking lot renovation and erosion control, which could be addressed in the third year HCD program. Mr. Benny Hawkins of the Construction Management Department addressed the various options that were open to the Council. He said that one option was to award the contract as bid with no deletions or redesign of the building. The option also included approving a bid of \$26,750 for

bleachers and \$11,717 for an acoustical seal at the stage. He stated that this total contract would amount to \$1,082,438. The total project could be awarded for an additional \$212,748.

If deletions were desirable, Mr. Hawkins indicated that they have looked at another option that would not cut the building back to a shell and reduce its quality. He stated that some of the deletion proposals were rejected because of their effect on the quality of the building. One of these proposals was stationary basket ball goals in place of movable ones. Some of the items recommended for deletion included \$1,400 in carpeting in the reception area and some of the movable walls that did not have to be installed immediately. He said that they were able to delete \$108,000 worth of items without changing the building form or square footage. He indicated that given the proposed deletions, only an additional \$103,000 would be needed instead of the \$212,748 amount. He felt that these estimates were negotiable.

Mr. Hawkins recommended that staff return to the Council on March 17, 1977 in which time they would be able to get together with the contractor to discuss cost reduction relative to item deletion in the project. He said that construction would begin on the 28th of March. Mayor Friedman asked Mr. Hawkins if he had discussed the options with the advisory committee. Mr. Hawkins indicated that he had had several hours of meetings with Ms. Bertha Means and had gone over all of the items that they proposed to delete.

Mr. Robinson commented that the staff recommended adoption of option number 2, which would require an additional \$104,000 in funds. It was recommended that the funds be transferred from the Major Parkland Acquisition account with a reduction in scope of that account. In addition, it was recommended that the Council give consideration to the funding of those items deleted in option 2, from the third year HCD program. This would include \$42,600 for deleted items and in addition \$67,000 for the parking area and erosion control. Mayor Friedman asked Mr. Robinson if he would be willing to work with the advisory committee to see to it that HCD funds are acquired for the options. Mr. Robinson stated that they had given their commitment to Ms. Means and Mr. Carl Turner to work towards achieving these funds in the next HCD program. He said that this was already being prepared by his staff for the third year plan. Mayor Friedman asked if the City was still in the process of acquiring parkland. Mr. Robinson stated that the City currently had three projects that it has not started acquisition on. The three projects were as follows:

1. The Walnut Creek Park
2. The Slaughter Lane/First Street Park
3. The Balcones/Walnut Creek Park

He stated that they felt the scope of these projects would be reduced in order to cover the expenditures of the Givens Project. Mayor Friedman stated that these projects would be reduced at this time and that the next Council could decide to increase them back again during the Capital Improvement Program review. Mayor Friedman asked Mr. Robinson if they feared losing their options in this area and Mr. Robinson stated that there were no options they would lose.

City Manager Dan Davidson stated that this particular option would not necessitate extensive delays on redesign of the project. He stated that they would very much like to see the Council adopt option number 2. so that work could start immediately. Mayor Friedman asked the City Manager if he was also committed to acquiring the HCD funding, and Mr. Davidson stated that he was.

MR. CARL TURNER asked if the \$104,000 could be relocated from the land acquisition fund, why not the entire amount to go with option number 1. Mr. Davidson said that it was his opinion that there was a limit to how much the City land acquisition programs could be reduced and still accomplish the objectives that were intended within the C.I.P. Mr. Turner stated that in that case they would accept option number 2.

MS. BERTHA MEANS stated that they wanted to be assured that the City was definitely committed to the completion of the project.

Mayor Pro Tem Snell moved that the Council approve option number 2. for the Givens Recreation Center Project. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann, Lebermann, Linn

Noes: None

Mayor Friedman stated that this would be concurrent with the assurances from the Council and the City Manager to acquire the HCD funds and recommend their distribution. He also issued a directive that he would like to see work begin on the project by the first of April. He thanked Mr. Turner and Mrs. Means for their work from the advisory standpoint and said he felt that the adopted option number 2. was about 99% complete. The Givens Center, according to the Mayor, would soon become a reality. Mr. Turner extended his gratitude to the Mayor and Council for their assistance in the matter.

#### MAYOR'S COMMISSION ON ELECTRIC RATES

Mr. Terry Sasser, Chairperson, Mayor's Commission on Electric Rates, presented a report. He stated that the Commission is continuing its work on recommendations for the development of revised electric rates for the citizens of Austin. He explained that the Commission strongly recommends that the Austin City Council immediately approve and adopt the following priority sections of the August 1976 report of the Mayor's Commission on Electric Rates and begin implementation of these recommendations:

1. Creation of a permanent Citizen's Electric Utility Commission. (Mr. Sasser felt this was the most important)
2. Utility service regulations and policies regarding the relationship between the electric utility and its customers.
3. Relief for indigent electric utility customers.

4. Institution of revised cost accounting system for the electric utility.
5. Institution of a public information and education program for utility customers.

Further recommendation, continued Mr. Sasser, will be forwarded to the City Council as the Electric Rate Consultant develops a revised electric rate structure. He said they had talked with Touche-Ross and plan to meet with them March 9, 1977, for their first meeting. Mayor Friedman pointed out that the institution of revised cost accounting system for the electric utility was underway. He said the Commission has forwarded to the Council the guidelines for the creation of the Utility Commission, and obviously before anything can be approved by the Council it needs to be put in Ordinance form and a public hearing held. The Mayor asked Mr. Sasser if he was requesting the setting of the public hearing. Mr. Sasser replied that they were ready for it as quickly as possible, and that the ordinance form is in the report. Mayor Friedman asked the Council what they thought about holding a public hearing on the creation of a permanent Citizen's Electric Utility Commission. There were comments that it would be an excellent idea. Mayor Friedman said that the Ordinance was in the hands of the Council and the staff. He said that a fiscal note would have to be prepared on it and it should be ready for publication for anyone who wants to find out more about it.

Councilmember Hofmann asked if utility service regulations and policies regarding the relationship between the electric utility and its customers would have to wait until the Touche-Ross report. He said no, the regulation included in the August report, mainly public utilities regulations, changed only where it looked like they were taking a certain class of customer and being unfair to them. In other words, certain restrictions for commercial users and not residential. He said that had been changed. Other than that they followed the Public Utility Commission's recommendations almost to the letter. Mayor Friedman suggested that the first and second items recommended should be included in the public hearing on March 24, 1977. Ultimately, he said, the Utility Commission, if it is created, will also be speaking to make recommendations on policies.

Councilmember Trevino asked about relief for indigent utility customers. He said that there has been some questions raised about that. Mayor Friedman said that there had been questions about that, and about how the rate structure would look, and that might require waiting until the Touche-Ross report. Mr. Sasser agreed with Mayor Friedman.

#### Motion

Mayor Friedman moved that the Council set a public hearing for March 24, 1977, at 2:30 p.m. to consider the creation of a permanent Citizen's Electric Utility Commission and discuss utility service regulations and policies regarding the relationship between the electric utility and its customers. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None



The Council meeting recessed at 12:00 noon until 2:00 p.m.

#### TOWN LAKE RACING

Father Joe Znotas, Pastor, St. Julia Church, appeared to discuss boat racing on Town Lake. He asked that the Council again consider some suggestions to reconcile the tension that has developed over the boat racing issue. Father Znotas suggested that perhaps there could be some recompense to the community effected by the boat races concerning some of the inconveniences of housing and streets, etc. He said there could be a working together of the neighborhood center, of El Centro, the Chamber of Commerce and perhaps the boat club people. Secondly, he went on to say, he would like to urge the Council, as Mayor Pro Tem Snell recommended, that there be a permanent solution to the problem. This could be in the form of additions to the ordinance concerning Town Lake, or perhaps a new ordinance. Father Znotas thanked the Council for their attention.

Mayor Friedman said that he felt the whole Council commiserated with Father Znotas's statements and that he was sure there would be some studies done to find out what can be done to help eliminate the residue of the problem. Mayor Friedman added that there was no answer that could be given that day, but suggested a meeting with the neighborhood people, the Chamber, the Aqua Fest people, and the Boat Club people, would probably be a quicker way of coming up with some short term solutions for the next few races. He said the Boat Club members had expressed a willingness to do what they can with the neighborhood and there should be a discussion covering the problems of litter and traffic. Mayor Pro Tem Snell reiterated the earlier decision that the amendment to the ordinance had been put off until later.

#### PROHIBITION OF DISPLAY OF PORNOGRAPHIC MATERIALS

Reverend Rick Webb, Minister, Fairview Church of Christ, appeared before the Council to present a proposal to prohibit display of pornographic materials in any area trafficked by minors. He said we have a problem that effects us all, the proliferation of sexually explicit material. The material, Rev. Webb stated, is not confined to a few sleazy shops downtown but has spread into the residential neighborhoods. He mentioned specifically the convenience stores, as well as some drug stores, where boys 8, 10 and 12 years old can browse uninterruptedly through these magazines. Rev. Webb continued that it is frightening to consider the distorted and perverted view of sex that is being portrayed to these young minds. He said we are having pollution of the minds and it is time that it was cleaned up. The problem, he continued, will not solve itself if left alone, not any more than any malignancy. It will only grow and become more malodorous. Concerned citizens of many other cities have successfully enacted ordinances against the display of pornographic materials, to the delight of a great number of our populace, according to Rev. Webb.

Rev. Webb asked the Council to pass an ordinance to prohibit the display of sexually explicit materials in any area trafficked by minors. He pointed out that we pay tax dollars to support the Municipal Airport, and yet sexually explicit materials are openly displayed in the curio shop there. Someone should do something about that, he said, that someone is you, that someone is me. Everyone in Austin is responsible for the shameful display in our town. He

pointed out that the people had been silent for too long. An ordinance would in no way infringe upon the first amendment, he said, because it would not prevent the sale of the material, but require merchants to remove sexually explicit material from their shelves and keep it under the counter. He said that having standards in the use of money, driving a car, sex, is not repressing ...it is reasonable. Rev. Webb noted that he was speaking for the religious community, and he had the signatures of over 15,000 interested citizens from various backgrounds who favor the ordinance. He said that they are appealing to the Council to start curbing the trash immediately.

Mayor Friedman told Rev. Webb that no action would be taken until an ordinance form for Austin is drafted and a public hearing is held. He said it was up to the Council as to when to refer it to the City Attorney for clarification and drafting. Councilmember Linn noted that the Council has already asked the City Attorney to collect a number of ordinances from cities in the United States, and those particularly that would hold up under Constitutional question. She said that until they get those together, no action can be taken. As soon as they are assembled, she said, the Council will call a public hearing.

Councilmember Trevino asked Rev. Webb if he or anyone else had contacted various stores to see if they are willing to comply with his request voluntarily. He answered that he had contacted the President of the marketing department of one of the local convenience stores, who was very cooperative. He said that they cooperate for a little while, and then the first thing they know the material is back on display. The stores do not actually own the news racks, but they are owned by a local distribution center, and they decide what magazines will be placed on there.

RICHARD DOUGLAS CRAM, speaking as a citizen, and a member of Hyde Park Baptist Church, spoke against the display of pornographic materials also.

#### FUNDING FOR MHMR

The item of Mrs. Allen Searight, Secretary/Treasurer, Austin-Travis County Mental Health-Mental Retardation, requesting to appear before Council to request funding for MHMR, was withdrawn.

#### PRESERVATION OF CITY PROPERTY

Mrs. Susan S. Barry appeared before the Council to discuss the preservation of the City's property located at 1505 Windsor Road specifically, and the Landmark Commission's criteria for preserving property, generally. Mrs. Barry feels that there should be a review of the Commission's list of recommendations for declaring property as historic. She explained that, in her opinion, there are many factors to consider in addition to the ones that are officially on their list.

## LIMITATIONS ON POLITICAL ACTIVITIES

MR. DEAN RINDY, City Planning Commission member, appeared before the Council to discuss an opinion issued by the City Attorney's office limiting political activities of volunteer members of City boards and commissions. He said that in fairness to the City Attorney's office, he would have liked to have discussed this matter in private with them, before criticizing the opinion in public because no doubt they could have corrected some misapprehensions of his.

He pointed out that the Section of the City Charter he was discussing was applied to City employees, but not as far as he could tell to the citizens who volunteered their time without pay to serve on City boards and commissions. Specifically, Mr. Rindy questioned that part of the opinion which stated that "the determination as to whether a person was an officer of a City is to be determined under the following definition of 'public office':

"Public office is the right, authority, and duty created and conferred by law, by which, for a given period, either fixed by law, or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public."

"Therefore, members of the following boards and commissions are officers of the City, since each board and commission listed exercises more than merely advisory authority in one or more areas within its jurisdiction:

1. Joint Airport Zoning Board
2. Board of Adjustment
3. Board of Equalization
4. Building Code Board of Appeals
5. Building Standards Commission
6. Civil Service Commission
7. Electrical Board
8. Explosive Appeals Board
9. Heating, Air-Conditioning and Refrigeration Appeals Board
10. Historic Landmark Commission
11. Hospital Board
12. Housing Authority of the City of Austin
13. Board of Trustees of the Mental Health-Mental Retardation Center
14. Planning Commission
15. Plumbing Board of Appeals
16. Board of Trustees of the Employees' Retirement System  
of the City of Austin
17. Solicitation Board
18. State Firemen's Relief and Retirement Fund, Austin Local  
Board of Trustees
19. Urban Renewal Board of Directors
20. Vending Commission"

Mr. Rindy requested that the opinion be revised or withdrawn until after election. He said that the opinion eliminated the political rights of scores of citizens, whose only crime was to volunteer to serve without pay on municipal boards and commissions. He went on to say that he did not believe the writers

of the City Charter intended to liquidate the rights of any of their fellow citizens. He felt that the key to the whole issue is the definition of the term "officer of the City."

Jerry Harris, City Attorney, told Mr. Rindy that he wished he had come by and talked to him because he felt there were a few things he needed to be clarified on. He said that no matter what he said in that opinion, according to many cases he has studied, people have lost their office because of what they have engaged in. These cases have been ruled by the Supreme Court of the United States. Mr. Harris said he felt he wrote the opinion just as much for protection as Mr. Rindy felt it was written for detriment. Mr. Harris went on to say that he could not help what the courts say, but there are plenty of courts saying that if someone does file against you, you may no longer be a member of the Planning Commission, no matter how unfair one might think it may be.

Mr. Harris told Mr. Rindy that he would have him do several things:

Scratch out the word "official" in Article XII because he disagreed with the interpretation that should apply to officials. (Mr. Harris pointed out that he could not go through the Charter scratching out words. He had to use the definition of official used by the Supreme Court of Texas and other courts of Texas.)

Mr. Rindy said that there are enough questions about the opinion and such a radical departure from past practice that it should be deferred and amend the Charter to make it more clear in spelling out what rights people do and do not have, if there can be a commitment from the Council that they do believe members of boards and commissions are entitled to participate in elections.

Mayor Friedman said that the Council could not change the Charter, it has to be done by a vote of the public. The only way this issue will come into play, he continued, is if someone is filed on in Municipal Court against someone for violating whatever the City Charter says. If Mr. Harris were so moved to remove this opinion and say, "No, he thinks it is all right for someone to do it, it still does not prevent someone from being filed on for contributing time, money, or any other thing of valuable service to a candidate while serving as an officer of the board, it would then be up to the courts to interpret what is an officer and what is an official. An interpretation or opinion of a City Charter does not make it so. The courts, fortunately or unfortunately, make it so. Mayor Friedman said he personally thought the opinion was wrong, and that it was outrageous to prevent citizens sitting on boards and commissions from participating in the electoral process. But, he continued, he can't challenge the opinion any more than anyone can. He could challenge it in court if someone were to file against him, but it doesn't matter what the City Attorney says, the Charter language is there, and anybody who wants to can go ahead and prosecute.

Mr. Rindy said, after further discussion, that perhaps the City should frame language clarifying this issue and restore volunteers their political rights which have been denied. Mr. Harris said it would be much nicer to be more specific in the area that they want regulated, and that can be done, but he did not make the policies concerning Charter elections or amendments. He continued that he would work diligently with the City Council or anyone else to draft any Charter amendments, ordinances or institute any policies of political activity that they might desire.

MR. ALLEN BUSSLER appeared before the Council on his own behalf to announce that sometime in the coming week there will be an article printed, which he is behind, stating that one of the 59 candidates in the Council election, is unfit for public office. Mr. Bussler is a City employee.

#### HARLEM CAB COMPANY PERMITS

At 2:30 p.m., Mayor Friedman opened the public hearing on the application by Harlem Cab Company to amend its taxicab franchise to increase the number of permits from 38 to 48.

JAMES W. TOWNSEND, who has been associated with the Harlem Cab Company in some capacity for 27-30 years, as an attorney, officer, or part-owner, appeared before the Council. After telling something about the history of the cab company, Mr. Townsend explained that they had made a survey of operations at the airport during a four-day period. They took a day in May, a day in September, one in January and one in February. During those four days in 24 hours, they had 636 trips from the Municipal Airport. Mr. Townsend said that from time to time they get calls from the Airport asking for more cabs and they are not able to comply because they do not have them. He said it was disheartening to have to turn people down who requested cabs, because they did not have the time to get the passengers and drive them to the Airport or other destination on time. Mr. Townsend went on to say that recently Southwest Airlines had been granted permission to increase their services in Austin. This will mean an added 157 flights and departures a week, which will put added demand on taxi service. He stated there was a need for the 10 additional cabs.

Mr. Allen Brecher, Urban Transportation, told the Council that they concur with the request for the 10 additional cabs, since they operate with the full use of the 38 permits it now has.

EWELL J. ROBINETT, President and part-owner of the Yellow Cab Company, said they had been in the cab business in Austin for 20 years. They started the company with 142 permits, but today are down to 60 permits. He said that their business in the past year shows a loss of 65,000 trips. He said that three or four years ago they were forced to change their method of operation from commission basis to lease. Drivers make from \$20.00 to \$70.00 a day. As a result, he continued, drivers who lease cabs from them are having a hard time making a living. He feels that there is no need for additional service in Austin.

MR. HAMILTON, a driver for Yellow Cab, told the Council that it is already very difficult to make a living driving a cab in Austin. If the Council grants 10 more permits, there will be more competition, for all present cab drivers. During most of the day, he continued, there are lots of cabs and there is not enough to do.

J. C. COX, driver for Yellow Cab, said that on his trips to the Airport he has seen as many as nine Harlem cabs waiting with dead meters. He saw no reason why Harlem should be issued 10 more permits, when it would hurt Yellow Cab and all the other drivers.

MARLENE HERWIG, assistant manager and bookkeeper at the Yellow Cab Company, spoke to the Council regarding the log they keep on trips to the Airport. She said they have three drivers at the airport at all times, and she did not

think they averaged ten trips a day apiece. She said there just is not the business out there, and they cannot see the need for 10 more cabs on the street.

Mayor Pro Tem Snell moved that the Council approve 10 additional permits for the Harlem Cab Company. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Trevino,  
Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Linn

#### ORDINANCE AMENDMENT ETHICS AND FINANCIAL DISCLOSURE

Mr. Jerry Harris, City Attorney, said he distributed copies of Ordinance No. 760408-G as it existed prior to the amendments. He asked members of the Council to compare it with the amended Ethics and Financial Disclosure Ordinance that was included in their materials. Mr. Harris said that in an effort to make the ordinance more concise and less confusing, they had deleted portions which were covered by other paragraphs. He recommended that certain portions of language in the ordinance be changed to make it less confusing. Another paragraph was removed because, according to Mr. Harris, it suffered from basically the same infirmity of broadness and vagueness and is just like the second part of a previous paragraph. Specifically, the amendments call for the deletion of paragraphs 2., 4. and 6. of Section 2-33, Standards of Conduct under Article V. Code of Ethics and the word "otherwise" in paragraph (c) of the same Article. Councilmember Trevino suggested the word "discuss" be added in paragraph (c) to replace "participate."

Mr. Harris said it was not their recommendation to change anything in the financial disclosure portion of the ordinance at this time.

As the Council had requested February 24, 1977, to give the Ethics Commission jurisdiction over financial disclosure as well as the ethical conduct provisions of the ordinance, Mr. Harris said a new Article had been drafted, setting up the Commission. It will be known as Article VII, clearly specifying that the Ethics Commission will have jurisdiction over alleged violations of Article V, which is ethical conduct, and Article VI, which is financial disclosure. Finally, they have provided in the new ordinance that the City Council will appoint the fifth member of the Ethics Commission, which will be an attorney, and the terms of all the members of the Ethics Commission shall begin July 1, 1976.

Mr. Harris said that the old ordinance provided the initial review of any complaint be held in an Executive Session to the extent allowed by law. He continued, that after considerable discussion, it was decided that this could not be provided under the open meetings law, so they have decided just to delete it to do away with any confusion about whether it could be an executive session.

Each of these changes, explained Mr. Harris, will give the City a better and more workable Ethics Ordinance and they are recommended to the City Council with the understanding that they are continuing to work with the Ethics Ordinance to make it one of the best ones around.

Mayor Friedman told the Council that the members of the Ethics Commission, Mrs. Rogers and Mrs. Neely, had informed him they concurred with the presentation of the amendments.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING THE AUSTIN CITY CODE; ESTABLISHING A CODE OF ETHICS FOR CITY OFFICIALS OF THE CITY OF AUSTIN; PROVIDING STANDARDS OF CONDUCT; ESTABLISHING AN ETHICS REVIEW COMMISSION; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Absent: Councilmember Himmelblau

The Mayor announced that the ordinance had been finally passed.

#### CREATION OF FOUR MUNICIPAL COURTS

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ESTABLISHING FOUR (4) MUNICIPAL COURTS FOR THE CITY OF AUSTIN; PROVIDING FOR THE EXERCISE OF CONCURRENT JURISDICTION BY THE AUSTIN MUNICIPAL COURTS; PROVIDING THAT THE JUDGES OF THE AUSTIN MUNICIPAL COURTS SHALL HAVE THE SAME QUALIFICATIONS AND BE SELECTED IN THE MANNER SPECIFIED IN THE CITY CHARTER; PROVIDING THAT THE MUNICIPAL COURTS OF THE CITY OF AUSTIN MAY BE IN CONCURRENT OR CONTINUOUS SESSION, DAY OR NIGHT; PROVIDING THAT THE JUDGES OF THE AUSTIN MUNICIPAL COURTS MAY TRANSFER CASES FROM ONE COURT TO ANOTHER AND THAT THE JUDGES MAY EXCHANGE BENCHES AND PRESIDE OVER ANY OF AUSTIN'S MUNICIPAL COURTS; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Hofmann

Noes: None

Absent: Councilmember Himmelblau

Mayor Friedman announced that the ordinance had been finally passed. He stated that this was based on the fact the last official census for the City of Austin is the 1970 census at 251,000 population.

## SIGN FOR THE PEOPLES RENAISSANCE MARKET

City Manager Davidson asked Mr. Pieter Sybesma of the City Manager's Office to summarize the cost of the items requested. Mr. Sybesma stated that Mr. Martin Mayfield appeared before the Council on February 10, 1977, requesting a sign and electricity for the People's Renaissance Market. At that time the Council requested the Manager's office to research the feasibility of this request. Mr. Sybesma indicated that tentative wording had been agreed to for the sign. The estimated cost of a metal sign and post would be approximately \$218.00, installation for the labor and materials would be about \$50.00 and a license agreement would put the total cost at \$368.00. Councilmember Linn asked Mr. Sybesma if he had recommended increasing the license fee by \$2 to cover this cost, and he indicated that he had. Councilmember Linn asked if this fee would still be effective after the cost for the sign was paid and Mr. Sybesma stated that that would be up to the Council. Councilmember Trevino stated that after the cost is recovered, the fee should be lowered. Mayor Friedman commented that what would be needed was an interim permit fee. Councilmember Linn inferred that she would rather pay the \$368.00 than go through a ridiculous process of increasing the permit fees. Mr. Davidson commented that they were not saying anybody had to pay the cost, but simply what the increase would be if the Council decided to charge the vendors.

Mr. Sybesma pointed out that as far as the electricity was concerned, it was decided that a curb extension for housing electrical outlets could be installed that would be waterproof and less subject to vandalism. He stated that there were a number of policy questions that the Council would have to address which were contained in a memorandum from Mr. Chester Falk. They included ownership of the facilities, liability for accidents, responsibilities for servicing, payment for the energy used and the payment of installation and maintenance. He stated that they had some estimated costs for a half block and for the three half blocks which range from \$3,402 to \$4,726 for the half block and \$8,652 to \$9,976 for the three half blocks. He said that this was for a combination of installation, maintenance and consumption. Installation for just the half block is estimated to be \$2,750 and for the entire three half blocks it is \$8,000 roughly.

Councilmember Linn stated that to run the market area cost around \$20,000 and that \$19,578 of this was for the police officers. She asked Mr. Sybesma how many policemen this included. He stated that this cost was for five officers on duty in split shifts for seven days per week. He said that 30% of the officers' time is spent in the market area. Councilmember Linn asked Mr. Sybesma if there was a decreased need for officers in the area or if there had been fewer complaints from the vendors this year as compared to last year. Mr. Sybesma did not know the answer to the question. Councilmember Linn asked if there was any possibility of decreasing the number of policemen in the area, and Mr. Sybesma indicated that he did not think so because each day vending licenses were checked. Councilmember Linn stated that the trash collection and street sweeping was specifically for the market area, and Mr. Sybesma affirmed the statement.

Mr. Sybesma stated that they based their estimate of the cost for electricity on 1000 KWH and 3000 KWH per month, times 12 months in a year. He said the cost could be anywhere from \$552 to \$1,472 annually.



MR. MARTIN MAYFIELD said that he did not want to be responsible for the additional \$2 licensing fee that would be charged the vendors. Councilmember Linn indicated she would rather pay for the sign than charge the vendors an additional \$2. Councilmember Hofmann pointed out that there are signs along the Hike and Bike trails and that hikers and bicyclists are not charged for that. In regards to the location for the sign, Mr. Mayfield indicated that he had suggested to Mr. Falk that the sign be somewhere between 18 and 24 inches just east of the center line along the market place. He stated that it was suggested that the sign be placed in one of the vending places but that this would not be feasible because someone would cover the sign up and it would not be read. Councilmember Linn asked Mr. Sybesma where he had recommended the sign be put. He stated that they did not make a recommendation but indicated that nothing could be installed in front of the fire outlet which faced to the north.

Mayor Friedman pointed out that the sign was going to be installed for two reasons:

1. To designate the spot.
2. To offer some advertising for the area.

He suggested attaching the sign to the street sign or the utility pole on the corner. Mr. Davidson said that if the Council approved the sign, they would work out a suitable location for it.

#### Motion

Councilmember Linn made a motion to hang the sign in a position that is readable and the motion was seconded by Councilmember Trevino.

#### Friendly Amendment

Councilmember Trevino offered a friendly amendment that the cost of the sign be paid for by the City. Councilmember Linn accepted the friendly amendment.

#### Substitute Motion

Mayor Friedman made a substitute motion that Councilmember Linn pay for the sign. The motion died for lack of a second.

#### Roll Call on Original Motion

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Hofmann, Lebermann  
Noes: None  
Absent: Councilmember Himmelblau

The Mayor announced that the original motion, with amendment, had carried.

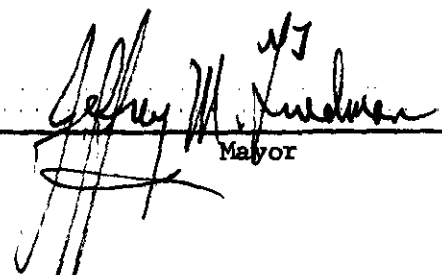
After further discussion concerning the plans suggested for electricity for the market, method of payment for same by the vendors, etc., Mayor Friedman suggested to Mr. Mayfield that he return to the vendors and come up with a definite plan concerning payment of electricity, should it be installed in the market. Mr. Mayfield agreed to this suggestion.

March 3, 1977

## ADJOURNMENT

The Council adjourned at 4:50 p.m.

APPROVED

  
Mayor

ATTEST:

  
City Clerk